

BEFORE THE DIRECTOR
OF THE
OFFICE OF CAMPAIGN FINANCE
D.C. BOARD OF ELECTIONS AND ETHICS
2000 14th STREET, N.W., SUITE 433
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF:)	DATE: July 17, 2007
)	
Mary Cheh)	DOCKET NO.: OCF FI2007-101
)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (OCF) pursuant to a letter received by Jonathan R. Rees, former candidate for Ward 3 Council in the District of Columbia, alleging a violation of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D.C. Official Code §§1-1101.01 et seq. Specifically, Mr. Rees alleged that, from March through November 2006: (1) Joseph Sternlieb, local developer and community leader, and his wife, Linda J. Singer, current Attorney General for the District of Columbia, and others established an illegal political action committee (PAC) known as “Friends of Joe Sternlieb”; (2) the PAC did not register or file required financial reports with OCF; (3) Mary Cheh, then candidate for Ward 3 Council, knowingly and willingly permitted an illegal PAC to operate inside her principal campaign committee (Mary Cheh for D.C. Council) and to solicit political contributions on her behalf; and (4) candidate Cheh knowingly accepted in-kind contributions that exceeded the contribution limitations in the form of reduced rent for campaign office space from PN Hoffman, a local developer.

Issues

1. Whether Joseph Sternlieb, Linda J. Singer and others operated as a PAC, under the name of “Friends of Joe Sternlieb” (Friends) within the parameters of D.C. Official Code §1-1102.04 (2001 Edition)?
2. If the Friends operated as a PAC, within the parameters of D.C. Official Code §1-1102.04(a), whether it was required to register as a PAC, pursuant to D.C. Official Code §1-1102.04(a)?

3. If the Friends operated as a PAC, within the parameters of D.C. Official Code §1-1102.04, whether it was required to file reports of receipts and expenditures in accordance with D.C. Official Code §1-1102.06(a)?
4. If the Friends operated as a PAC, within the parameters of D.C. Official Code §1-1102.04, whether Mary Cheh (Cheh), then candidate for Ward 3 Council, permitted the PAC to operate within her principal campaign committee (Committee) , Mary Cheh for D.C. Council, and to solicit political contributions on her behalf?
5. If the Friends operated a PAC, within the parameters of D.C. Official Code §1-1102.04, within Cheh's Committee whether Cheh failed to report, pursuant to D.C. Official Code §1-1102.06, any contributions and expenditures derived therefrom?
6. Whether Cheh knowingly accepted in-kind contributions, pursuant to 3 D.C.M.R. §9900.1 (March 2007), in excess of the contribution limitation of \$500.00 for the office of "member of the Council elected from a ward," pursuant to D.C. Official Code §1-1131.01(a)(4)?

Background

On January 29, 2007, OCF initiated an internal inquiry into the rental expenditures made by Candidate Mary Cheh, and the contributions, if any, her campaign committee may have received from Joseph Sternlieb, Linda Singer and the individuals listed on a handbill, "Why We Support Mary Cheh For Ward 3 Council." Specifically, OCF's Audit Division was charged to review all reports filed by Candidate Cheh to determine any irregularities; and OCF's Office of the General Counsel was tasked to determine if any funds were contributed or expended on behalf of Candidate Cheh by persons, acting individually or as a group, which were required to file with OCF.

On January 29, 2007, pursuant to a desk review of the October 10, 2006 and December 10, 2006 Reports of Receipts and Expenditures (R&E) conducted by OCF's Audit Division, a letter was issued to Donald Durkee, Treasurer, Mary Cheh for D.C. Council Committee (Committee), to request a copy of the lease agreement between the Committee and PN Hoffman for campaign office space located at 4731 Wisconsin Avenue, N.W., and copies of the negotiated checks to substantiate rental disbursements listed in the referenced R&E reports (Exhibit 1). On January 31, 2007, the treasurer responded to OCF's letter with a copy of the lease agreement dated August 17, 2006 (Exhibit 2), and copies of two (2) checks dated October 3, 2006 and November 6, 2006 for \$1,500.00 each, in payment of rent for October and November 2006 (Exhibits 3 and 4).

On February 2, 2007, OCF issued letters to Candidate Mary Cheh and alleged PAC members (Joseph Sternlieb, Linda Singer, Alan Yu, Debra Yogodzinski, Sharon Yanagi,

Barbara Wolfson, Jane Solomon, Daniel Solomon, Alan Schwartz, Susan Linsky, Aviva Kempner, Ellen Jones, Richard Gersten, Sherry Ettleson, Norman Dong, Rosalyn Doggett, Emily DeCicco, Albert Cacoza, Claire Bloch, John Baringer, Susan Banta, Anne-Marie Bairstow, and Andrew Aurbach) concerning allegations of the creation and operation of a PAC, known as the “Friends of Joe Sternlieb”, which was not registered with OCF; and that such PAC expended funds for campaign purposes, which were not disclosed to OCF. The letter further requested that these individuals identify a handbill entitled, “Why We Support Mary Cheh For Ward 3 Council”, and the circumstances concerning its creation and distribution.

Between February 13, 2007 and February 21, 2007, OCF received written responses to the foregoing letter from seven (7) of the 23 individuals addressed, including Cheh, Anne-Marie Bairstow, Daniel Solomon, Jane Solomon, Aviva Kempner, Debra Yogodzinski, and Susan Linsky. These respondents to OCF’s letter confirmed the following: (1) that they were not aware of a group or organization known as the “Friends of Joe Sternlieb”; (2) that a group came together to “make sense of the large number of candidates running for Ward 3 Council seat”; (3) that no funds were raised at meetings; (4) that financial contributions were made directly to the Cheh campaign; (5) that all agreed to sign the handbill endorsing Mary Cheh’s candidacy; and (6) that according to Candidate Cheh, the referenced handbill, “Why We Support Mary Cheh”, was copied and used by her campaign at a candidate forum, and that it did not contain the required disclaimer.

On February 16, 2007, OCF opened a full investigation (FI-2007-101) into allegations of violations of the D.C. Campaign Finance Act, and its implementing regulations, by Candidate Cheh and the Mary Cheh for D.C. Council Committee (Committee). OCF interviews were conducted, and summary narratives were drafted, jointly by William O. Sanford, Esq., Senior Staff Attorney, and Jean Scott Diggs, Hearings Examiner.

By April 29, 2007, it became apparent that additional time was required within which to complete the investigation in this matter, pursuant to D.C. Official Code §1-1103.02(c). Accordingly, the Director requested and received approval from the Board of Elections and Ethics, at its May 8, 2007 Board meeting, for an additional 30 days within which to complete the investigation of this matter.

Relevant Laws and Regulations

D.C. Official Code §1-1101.01(5):

“The term ‘political committee’ means any proposer, individual, committee (including a principal campaign committee), club, association, organization, or other group of individuals organized for the purpose of, or engaged in: promoting or opposing a political party, promoting or opposing the nomination or election of an individual to office, or promoting or opposing any initiative, referendum, or recall.”

D.C. Official Code §1-1101.01(6)(A)(iv):

“The term ‘contribution’ means . . . services to a candidate’s campaign without charge, or at a rate which is less than the rate normally charged for such services.”

D.C. Official Code §1-1101.01(6)(B)(i):

“Notwithstanding the foregoing, such term shall not be construed to include: Services provided without compensation, by individuals (including accountants and attorneys) volunteering a portion or all of their time to a candidate or political committee[.]”

D.C. Official Code §1-1101.01(8):

“The term ‘person’ means an individual, partnership, committee, corporation, labor organization and any other organization.”

D.C. Official Code §1-1102.04(a):

“Each political committee shall file with the Director a statement of organization within 10 days after its organization.”

D.C. Official Code §1-1102.04(b):

“The statement of organization shall include:

- “(1) The name and address of the political committee;
- “(2) The names, addresses, and relationships of affiliated or connected organizations;
- “(3) The area, scope, or jurisdiction of the political committee;
- “(4) The name, address, and position of the custodian of books and accounts;
- “(5) The name, address, and position of other principal officers, including officers and members of the finance committee, if any;
- “(6) The name, address, office sought, and party affiliation of:
 - “(A) Each candidate whom the committee is support; and
 - “(B) Any other individual, if any, whom the committee is supporting for nomination for election or election, to any public office whatever[;]
- “(7) A statement whether the political committee is a continuing one;
- “(8) The disposition of residual funds which will be made in the even of dissolution;
- “(9) The name and address of the bank or banks designated by the committee as the campaign depository or depositories, together with the title and number of each account and safety deposit box used by that committee at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and
- “(10) Such other information as shall be required by the Director.”

D.C. Official Code §1-1102.06(a):

“The treasurer of each political committee supporting a candidate, . . . , required to register under this chapter, shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director.” . . . such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office such candidate is seeking, and on the 8th day next preceding the date on which such election is held[.]”

D.C. Official Code §1-1102.07:

“Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount of \$50 or more within a calendar year shall file with the Director a statement containing the information required by §1-1102.06. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.”

D.C. Official Code §1-1102.10:

“All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, initiative, referendum or recall petitions and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office, or for the support or defeat of any initiative, referendum or recall measure, shall be identified by the words “paid for by” followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.”

D.C. Official Code § 1-1131.01(a)(4):

“No person shall make any contribution which, and no person shall receive any contribution from any person which, when aggregated with all other contributions received from that person, relating to a campaign for . . . election to public office, including both the primary and general election . . . , exceeds: [I]n the case of a contribution in support of a candidate . . . from a ward . . . , \$500.”

3 D.C.M.R. §3000.1:

“Each political committee shall file a statement of organization, on a form prescribed by the Director of the Office of Campaign Finance (the Director), within ten (10) days of organization.”

3 D.C.M.R. §3000.2:

“Each political committee shall be deemed "organized" when any proposer, individual, committee (including a principal campaign committee), club, association, organization, or other group of individuals formally agree, orally or in writing, or decide to promote or oppose a political party, the nomination or election of an individual to office, . . . “.

3 D.C.M.R. §3000.6:

“An authorized committee shall be any political committee designated by a candidate on the statement of candidacy form, filed under §3006.1, to receive contributions or make expenditures on behalf of a candidate; and it shall include the name of any candidate for elective office in the District of Columbia in its name.”

3 D.C.M.R. §3000.7:

“An unauthorized committee shall be any political committee which has not been designated by a candidate on the statement of candidacy form, filed under §3006.1, to solicit or receive contributions or make expenditures on behalf of a candidate seeking office; and it shall not include the name of any candidate for elective office in the District of Columbia in its name.”

3 D.C.M.R. §3008.9:

“Each in-kind contribution [shall] be assessed at the current local fair market value at a time of the contribution[.]”

3 D.C.M.R. § 3011.2(d):

“Contributions in support of either individual candidates or their authorized committees . . . shall be limited to the following: Ward Member of the Council . . . five hundred dollars (\$500).”

3 D.C.M.R. §3011.13:

“A corporation, its subsidiaries, and all political committees established, financed, maintained or controlled by the corporation and its subsidiaries share a single contribution limitation.”

3 D.C.M.R. §3011.14:

“A corporation is deemed to be a separate entity; Provided, that a corporation (corporation B) which is established, financed, maintained or controlled (51% or more)

“by another corporation (corporation A) is considered, for the purposes of the contribution limitations, a subsidiary of the other corporation (corporation A).”

3 D.C.M.R. §3711.1:

“Upon a determination [that] a violation has occurred, the Director may ministerially impose fines upon the offending party, in the following manner:

- “(a) Each allegation shall constitute a separate violation; and
- “(b) A fine shall attach for each day of non-compliance for each violation.”

3 D.C.M.R. §3711.2:

“Fines shall be imposed as follows:

- “(d) Failure to file a statement of organization for a political committee, \$30 per day;
- “(f) Failure to file [Reports of Receipts and Expenditures,] \$50 per day;
- “(n) Failure to place notices required by the Act on campaign literature, \$500;
- “(o) Accepting contributions in excess of contribution limitations, \$2,000;
- “(p) Making contributions in excess of contribution limitations, \$1,000; and
- “(dd) Failure to disclose required information on reports and statements, \$50 per day.”

3 D.C.M.R. §3711.3:

“The aggregate of the penalties imposed pursuant to the Director’s authority, pursuant to §3711.2, may not exceed two thousand dollars (\$2000) for each violation.”

3 D.C.M.R. §3711.6:

“The Director may modify, rescind, dismiss or suspend any fine imposed, pursuant to §3711, for good cause shown; provided, that fine imposed for failure to file an eight (8) day pre-election report shall be mandatory, unless a written extension for filing the report, pursuant to chapter 30 of this title, has been granted by the Director.”

In the Matter of: D.C. Agenda, OCF Docket No. PI 2000-101 (November 1, 2000) (“By collecting and retaining contributions, from May 24, until June 14, 2000, singularly dedicated, and understood by the donors thereof to be solely committed, to favorable passage of the [School Governance Charter Amendment], D.C. Agenda evidenced the decision to step from the domain of a tax exempt publicly supported organization to that of a political committee in support of the Amendment.”).

OCF Interpretative Opinion #02-05(a), Contribution Limitations for Limited Liability Corporations, (Exhibit 5).

Summary of Evidence

Summary of Interview of Complainant, Jonathan Rees, 2006 Candidate Ward 3 Council

On February 28, 2007, OCF interviewed complainant, Jonathan Rees (Rees), candidate for Ward 3 Councilmember in the 2006 city-wide elections in the District of Columbia. Rees stated that as a candidate, he received an e-mail from an individual, whose screen name was D.C._jensign @ yahoo.com, and that the accountholder was a part of a political action committee (PAC) of local business leaders in search of a Ward 3 candidate to endorse. According to Rees, the e-mail stated that a PAC, consisting of approximately 23 to 25 persons, would assist the candidate in obtaining campaign financing from various sources, and may become a part of the candidate's campaign staff (TR, p. 4). Rees did not retain a copy of the e-mail, although he responded to it (TR, p. 6).

Rees further stated that other candidates were interested in interviewing with the PAC because Joseph Sternlieb (Sternlieb) and Linda Singer (Singer) were "well known", and that this was a legitimate PAC. Rees stated that he ultimately declined to interview with the PAC (TR, p. 5). According to Mr. Rees, he and Mary Cheh "were very close to one another, up until the time this group chose her" (TR, p. 10). He continued that this group promised "that whomever they chose, [they] would go out and actively solicit campaign funds for the chosen candidate" (TR, p. 13). Rees stated that he observed Sternlieb's constant campaigning for Candidate Cheh, and that he never saw Singer campaigning (TR, p. 23).

Rees stated that he spoke with Candidate Cheh by telephone, who acknowledged that she would participate in the interview with the PAC, and that Sternlieb and Singer were the heads of the PAC (TR, p. 10). Rees further stated that he learned through other Ward 3 candidates that members of the PAC contacted their friends to seek contributions (TR, p. 13). Rees stated that when Singer e-mailed the offer of endorsement [to him and the other Ward 3 candidates], she promised the following: (1) to actively seek funding for the candidate; (2) to help on the candidate's campaign; and (3) to become a part of the candidate's campaign committee (TR, p. 16). Rees further stated that Ms. Singer did not identify herself directly, but via her Yahoo e-mail address: D.C._jensign@yahoo.com. Rees did not retain a copy of the e-mail (TR, pp. 16-18). Nonetheless, Rees testified that the other Ward 3 candidates would confirm this statement (TR, pp. 19-21).

Rees further alleged that Candidate Cheh maintained three (3) campaign headquarters: (1) the home of her campaign treasurer, Donald Durkee, at 3908 Morrison Street, N.W., Washington, D.C. 20015; (2) 4731 Wisconsin Avenue, N.W., leased from PN Hoffman for the 6-month period, beginning June 2006 (TR, p. 30); and (3) a condominium "upstairs" at Tenley Hill Condominiums (TR, p. 28). Rees stated that he learned through

Gina Trippi, who worked for then Ward 3 candidate Paul Strauss, that [Hoffman] was asking \$5,000.00 per month for the office space leased to Candidate Cheh at 4731 Wisconsin Avenue, N.W. (TR, p. 31). Rees further stated that the former tenant of the space paid approximately \$4,000.00 per month. Rees claims the \$2,400.00 check [paid by the Cheh campaign] to Tenley Hill, LLC, was for condo space located above the commercial space at 4725 Wisconsin Avenue, N.W., (TR, p. 39).

In addition, Rees stated that PN Hoffman renovated the office space used by the Cheh campaign after she moved out (TR, p. 42). Further, Rees stated that a security guard stated that Candidate Cheh rented the condo space [upstairs] for four to five months (TR, p. 48). Rees did not provide the name of the security guard with whom he spoke. Rees also stated that he first saw the Cheh banner hanging outside of the campaign office at 4731 Wisconsin Avenue, N.W. in May 2006 through January 2007; and, that Mary Cheh sent e-mails to him regarding “meets and greets”; but, he never kept any of the e-mails (TR, p. 51-53).

Summary of Interview of Mary Cheh, 2006 Candidate for Ward 3 Council

On February 28, 2007, OCF interviewed Councilmember Mary Cheh (hereinafter respondent). The respondent appeared pro se. She was accompanied by Claire Bloch. The respondent was advised of the allegations included in the complaint submitted by Jonathan R. Rees and indicated that she understood the essence of the complaint.

The respondent stated that her campaign committee leased office space from PN Hoffman and Associates on or about August 17, 2006 as memorialized in a letter to Lamont Hoffman. She continued that pursuant to suggestions that she needed a Campaign Headquarters because “it was run out of my house and out of the house(sic) of other volunteers, she asked members of her campaign staff to try and identify vacant property which could be utilized (TR, p. 8). “There was just one rental that I engaged in” (TR, p. 8). She stated that she rented the space at 4731 Wisconsin Avenue, N.W. for three months but probably occupied it for less than that period in actuality (TR, p. 11). The respondent additionally stated that the Wisconsin Avenue office was the only space she rented for her Campaign Headquarters. She denied the allegation that her campaign occupied the space at 4731 Wisconsin Avenue prior to the execution of the lease agreement. The respondent stated that she had no idea what the dimensions of the space her Campaign Headquarters were.

The respondent also stated that the agreement provided for a reduction in the monthly rental fee for the space pursuant to her reduced usage after the Primary Election on September 12, 2006 because of PN Hoffman’s reclamation of a portion of the space for its own use (TR, p. 17). She stated that in accordance with the agreement, the rent for the space was reduced from \$2,500.00 monthly to \$1,500.00 (TR, p. 22). The respondent stated that she does not know Lamont Hoffman (PN Hoffman and Associates) very well but, came to be acquainted with Mr. Hoffman through Debbie Yogodzinski who volunteered with her campaign; and, who worked for Mr. Hoffman (TR, pp. 24-25). The

respondent unequivocally stated that she did not enter into any special arrangement with anyone to negotiate any accommodation for a rental decrease (TR, pp. 25-27).

The respondent denied any knowledge of a group known as “Friends of Joe Sternlieb,” and added that the only reference thereof has been by Rees (TR, pp. 28, 29). Whereupon, she stated that around April of 2006 she was contacted via telephone possibly by Anne-Marie Bairstow who informed her that a group of neighbors were getting together to interview candidates in the Ward 3 Council race. She stated that she accepted an invitation and attended an interview where 20 or 30 people, many of whom she did not know, were present, including Mr. Sternlieb (TR, pp. 30,31). According to the respondent, the group informed her that they were interviewing all the candidates. She stated that the group asked her to complete a questionnaire, which she completed while “thinking, you know, who are these people and why are they, you know, think that that they can, you know, have me do all this?” (TR, pp. 31-32).

She stated, however, that subsequent to her interview she was invited back for a follow-up interview within about two weeks at which many of the members of the group, including Anne-Marie Bairstow, indicated that they wanted to support her candidacy. In fact, Anne-Marie Bairstow ended up eventually as her campaign manager (TR, p. 32). She continued that others helped out as volunteers and some gave her money (TR, p. 33). Cheh She indicated that the meetings occurred at a place called Joanne’s or Joanna’s Treehouse on Wisconsin Avenue, which was perhaps a pre-school program.

When presented with a copy of a handbill entitled “Why We Support Mary Cheh”, the respondent stated that she did not personally commission the document but, she did use it in advertisements for her campaign in the Northwest Current newspaper. She testified that she later discovered that her Campaign Manager, Anne-Marie Bairstow, reproduced and distributed additional copies of the document without her knowledge (TR, pp. 44-50). She stated that many of the people listed in the handbill, including Joe Sternlieb, placed signs in their yards and worked for her, just like other volunteers and people at house parties had worked for her (TR, p. 51, 55).

The respondent stated that she knows both Joseph Sternlieb and his wife Linda Singer; but, she did not meet Mr. Sternlieb until she was interviewed by the group at the Treehouse. She stated that Sternlieb was not affiliated with her campaign; and, that he nor Linda Singer ever solicited funds or made expenditures for her campaign (TR, p. 55-56). The respondent concluded that she is very proud of the campaign she waged as a first time candidate and conducted it in a clean and ethical manner.

Summary of Interview of Lamont Hoffman, CEO of PN Hoffman

On March 1, 2007, OCF interviewed Lamont Hoffman (Hoffman), Chief Executive Officer (CEO) of PN Hoffman. Hoffman appeared pro se. He was accompanied by his Executive Assistant, Nora Lauterbach. Hoffman stated that his business is engaged in

development of mixed use projects, neighborhood transformation projects throughout the District of Columbia and the suburbs of Maryland and Virginia. Hoffman stated that his company has been approved by the AWC (Anacostia Waterfront Corporation) Board as the master developer for the Southwest Waterfront, awaiting D.C. Council approval; and, has no other contracts or anything with the city (TR, p. 6).

Hoffman stated that he did not know Candidate Cheh prior to her run for D.C. Council, but came to know her through Debbie Yogodzinski (Yogodzinski), an attorney with Nixon-Peabody, whose legal services were used by Hoffman on several projects, and who he believed was working with her and promoting her and others (TR, pp. 7,10). Hoffman stated that Yogodzinski did not solicit him or others at Hoffman for financial support for the Cheh campaign (TR, p. 12). Hoffman further stated that he did not know Joseph Sternlieb, nor of a group called the “Friends of Joe Sternlieb.” Hoffman stated that he did not actively hold fundraisers for Candidate Cheh, nor attend fundraisers for the candidate (TR, pp. 8, 9).

Hoffman stated that PN Hoffman is the managing member of 5401 Western Avenue Residential LLC, PNC Union Square LLC, PNC Union Square Warehouse LLC, and Tenley Hill LLC.

Hoffman further stated that he was involved in negotiating campaign office space for the Cheh campaign located at 4731 Wisconsin Avenue, N.W.. He stated that the space was vacated in January 2006 by a former tenant of approximately four (4) years, Left Bank Bakery Café, and that the space remained empty for some time. Hoffman further stated that his company commenced “fixing up” the space for the eventual occupancy of PN Hoffman; but, that “because the market was so soft last year, the real estate, residential in particular market, we didn’t occupy the space like I thought we may” (TR, p. 14).

Hoffman stated that Yogodzinski indicated that the Cheh campaign was interested in space for its campaign headquarters; and Mary Cheh and two (2) others, came by and looked at the space, liked it and said they only needed it for a short period of time (TR, p. 14). According to Hoffman, the initial deal was for a one-month lease (actually a 3-week period) at a rate of \$2,500.00, and Hoffman stated that would be okay because PN Hoffman indeed planned to occupy the space within the next couple of months (TR, p. 15). The parties agreed to extend the lease if Cheh won the Primary Election, but, at that time, Hoffman would have to move some of his personnel in the space. The rent for the shared space was negotiated at \$1,500.00 per month (TR, pp. 15, 16).

Hoffman stated that the space was not used in fact by PN Hoffman during Cheh’s tenancy, but rather shared with Elinor Bacon (Bacon), a friend who joint-ventures with PN Hoffman and works alone as a facilitator with companies on neighborhood transformation projects. (TR, p. 20). Hoffman further stated that Bacon moved [eventually] from the first-floor space, and that PN Hoffman Marketing and Sales staff occupied the space formerly used as Cheh campaign headquarters (TR, p. 21).

Hoffman made a statement wherein he again said that the basis for the lease agreement, that he had a vacant space since January 2006, when the tenant who had financial difficulties moved out, was collecting no rent, no market demand coming his way, and he decided that he would renovate and move his business into the space; “and the marketing softened the way it was in 06 as that turned out, that was, remained vacant, we didn’t even need it for awhile”; when Cheh approached, he looked at it as “serendipity [because] it was a space that was vacant. I was collecting nothing on it. And I was very careful, at that time, to make sure I had a rent that was appropriate for that space. And also careful to make it understood that I would need to start occupying that space. And we created this one page memo that outlined that. And that is exactly what happened.” Hoffman stated that the prior tenant, Left Bank Café and Bakery, paid \$2400 per month. (TR, pp. 28-32).

When questioned concerning why rent checks from the Cheh campaign were payable to different entities, Hoffman responded that he likely informed Candidate Cheh to issue the initial payment to Tenley Hill LLC, the owner and landlord of the space, and that subsequent checks [issued] to PN Hoffman were deposited in the Tenley Hill, LLC account (TR, p. 25).

Hoffman denied the allegation that the Cheh campaign occupied office space at 4731 Wisconsin Avenue, N.W. from June 2006 to December 2006. Hoffman further denied that he leased residential condo space at Tenley Hill to Mary Cheh; and stated those were condominiums, which were all sold (TR, pp. 26, 27). Hoffman stated that the former base rent of the property leased to the Cheh campaign was approximately \$2,400.00 per month, and that it was not based on square footage (TR, p. 31).

On March 1, 2007, Hoffman responded via e-mail that the square footage of office space occupied by the Cheh campaign was @ 1,000 square feet (Exhibit 6). Hoffman further confirmed that \$500.00 contributions were made to the Mary Cheh for D.C. Council Committee from: PN Hoffman & Associates (two checks), 5401 Western Avenue Residential LLC, PNH Union Square Warehouse LLC, and PNH Union Square LLC (Exhibit 8).

Summary of Interview of Donald Durkee, Treasurer, Mary Cheh for D.C. Council Committee

On March 1, 2007, OCF interviewed Donald R. Durkee (Durkee), Treasurer, for the Mary Cheh for D.C. Council Committee. Durkee appeared pro se. During the interview, Durkee testified that he has known the respondent, Mary Cheh, since December 16, 2005. Durkee stated that he was asked by the respondent in December of 2005 to become the treasurer for her campaign (TR, p. 6). Durkee also stated that the address of the Cheh Principal Campaign Committee was his home address of 3908 Morrison Street N.W., Washington, D.C., for correspondence purposes (TR, p. 8).

Durkee stated that the campaign had rented office space at another location. On or about August 25, 2006, Durkee received or had a conversation with Mary Cheh and received a letter from that date, that she had written to, or directed to PN Hoffman Company laying out the terms of renting a property for the campaign headquarters (TR, pp. 10-11). He stated that his role in the rental of the office space located at 4725 Wisconsin Ave. N.W. was limited to writing a check for the initial payment of \$2,500.00 and two subsequent checks for \$1,500.00 each (TR, p. 11). Durkee stated that he made the \$2,500.00 check payable to Tenley Hill instead of PN Hoffman at the request of Campaign Manager, Anne-Marie Bairstow, but he is certain the payment was for the office space at 4725 Wisconsin Avenue, N.W.; and, that this was the only continual property lease by the Cheh Campaign (TR, pp. 17-18).

Durkee further stated that to his knowledge the Cheh Campaign did not occupy any residential condominium in that vicinity, but he does recall attending a fundraiser for the Campaign in one of the units in the vicinity of the Campaign Headquarters which was occupied and hosted by a business owner in commercial space but not Hoffman. Durkee stated that he believes the lease agreement included a provision that reduced the monthly rental amount subject to the property owner also using the space. However, Durkee did not know who might have actually shared the space. Durkee also stated that to his knowledge the Cheh campaign did not occupy the office space prior to or subsequent to the period noted in the August 17, 2006 agreement.

Durkee stated that he has no knowledge of a group known as “Friends of Joe Sternlieb”, but he did believe that Mr. Sternlieb did make a contribution to the campaign within the limits. Durkee stated that he has no knowledge of any group that solicited or expended funds on behalf of the Cheh Campaign. Durkee was aware of people originally in the ward who spoke to all the candidates in trying to decide who to support, and that they elected to support Mary Cheh; and that some individuals who participated wrote personal contributions to Cheh (TR, pp. 30-31).

When allowed to examine the “Why We Support Mary Cheh” handbill, Durkee indicated that he recognized several of the names as contributors to the campaign. Specifically, he identified Claire Bloch, whom he said became a campaign manager after the primary; and Debra Yogodzinski, whom he said he had known for many years because she was an attorney with his wife’s law firm (TR, pp. 34, 35). Durkee concluded that he had tried to follow the rules and had received guidance from OCF on several occasions.

Summary of Interview of Joseph Sternlieb, Local Developer and Community Leader

On March 5, 2007, OCF interviewed Joseph Sternlieb (Sternlieb), local developer and community leader. Sternlieb was represented by Richard Gordin, Esq. Sternlieb denied the existence of any group or organization known as “Friends of Joe Sternlieb”. He additionally denied that he was a member of a Political Action Committee that assisted the “Mary Cheh for Council” Campaign. However, he did acknowledge that he was

involved with a group during the 2006 election cycle that had an e-mail listserv name of "Ward 3 Action" (TR, p. 13).

According to Sternlieb, initially, he had considered running for the Council and was encouraged to do so by a fairly large number of people but, he decided not to run. Nonetheless, because he wanted to actively participate in one of the campaigns, he sent a note to the people who had encouraged him to run and suggested that they conduct interviews of the candidates to determine who would best serve the residents of Ward 3 (TR, p. 14). In addition, Sternlieb stated that they met as a group and decided that they would neither raise nor spend money as a group; but, they would interview candidates and volunteer in the campaign if they reached a consensus.

According to the Sternlieb, the only criteria were to come with a fresh open mind (TR, p. 15). Sternlieb stated that not all the members of the group decided to support the Cheh Campaign. "Some of the people who participated in the interview didn't like Mary Cheh as much as they liked other candidates, and they went off and volunteered for the other candidates, and some people who participated in the interview and liked Mary Cheh a lot just disappeared and never did anything, and we never saw them again" (TR, p. 16). Sternlieb further stated that the group had no leader, no officers, no by-laws and no bank account (TR, p. 17). He stated that the group's activity was restricted to identifying a candidate that they could in Ward Three (TR, pp. 18-19).

Sternlieb stated that he gave permission to Claire Bloch to use his name on the handbill entitled, "Why We Support Mary Cheh" (TR, pp. 19, 20). Sternlieb stated that his wife, Linda Singer, was not involved with the group or any of the group's activity. The extent of support for the Cheh candidacy his wife expressed was to wear a Cheh tee shirt with him and their children during the Palisades Parade (TR, p. 21).

Sternlieb stated that he met Candidate Cheh in January or February of 2006 through Ellen Jones. Sternlieb also stated that he recalls that the Ward 3 Action group interviewed Robert Gordon, Bill Rice, Sam Brooks, and Erik Gaull, in addition to Cheh. He also stated that Paul Strauss and Eric Goulet contacted him for support (TR, pp. 24, 25). He added that Rees telephoned one of the group participants and advised that he would not be attending any of the forums or debates (TR, p. 26). Sternlieb stated that the group conducted interviews in March and April. He stated that the group met once at the home of Debra Yogodzinski and Alan Schwartz in Chevy Chase and two or three times at what he believes was Jonah's Treehouse on Wisconsin Avenue, which is owned by the wife of Rick Gersten (TR, pp. 28, 29). Sternlieb stated that he loaned his name to a number of fund raising events on behalf of Cheh. He also stated that he sent e-mails to friends to inform them that he was supporting Cheh, advised them of the number to call to volunteer, and the website, which gave information about the candidate and how to contribute to her campaign. Sternlieb stated that all of his activity was performed as an individual Cheh campaign volunteer. He denied that the group ever collectively

contributed to the Cheh campaign but acknowledged that individuals within the group did make contributions (TR, pp. 35, 36). Sternlieb stated that he does not know Lamont Hoffman and he was not involved in the negotiations for the office space the Cheh campaign leased from PN Hoffman.

Summary of Interview of Catherine Wiss, 2006 Candidate Ward 3 Council

On March 21, 2007, OCF interviewed Catherine Wiss (Wiss), Candidate for Ward 3 City Council. Wiss appeared pro se. Wiss stated that she was contacted by Anne-Marie Bairstow, who told her that she represented a group who wanted to endorse a candidate

for Ward 3 Council (TR, p. 9). Wiss stated that she could not recall how she was contacted, but it was by telephone or some other means, as she could not find an e-mail concerning the contact. Wiss recalled that the group wanted her to talk to them at Joseph Sternlieb's house regarding endorsement of a candidate. Wiss later received an e-mail from Anne-Marie Bairstow stating that the meeting would not take place at Sternlieb's house, but rather at Jonah's Treehouse, and that a list of questions was provided that she should be prepared to answer [at the meeting] (TR, pp. 11,12). Wiss further stated that when she arrived at the meeting, she was met by Emily DeCicco (DeCicco), a woman she knew from the community, who stated they were "friends of Joe Sternlieb."

Wiss stated that DeCicco stated she had been trying to get Sternlieb to run for Council, but he declined; but that the group was going to decide whom to endorse and support for Ward 3 Council (TR, p. 13). Wiss stated that the purpose of the interview was to decide whether to support her or another candidate (TR pp. 13, 14). Wiss further stated that Joe Sternlieb surprised her when he stated that the group endorsed and supported Victor Reinoso in the School Board race, and that they made his (Reinoso's) election possible (TR, p. 14). Wiss interpreted the foregoing statement to mean, "take them seriously because they were going to choose the next Ward 3 Council person" (TR, p. 14). Wiss further stated that Joe Sternlieb "seemed to lead the conversation," (TR, p. 15), that he commented that "he didn't think I had much vision", that he "seemed to be the leader of the group", (TR, p. 23), that "he was the one asking questions" (TR, p. 24), and that Sternlieb stated that "I'll have to run somebody against Bob [Gordon] in the next ANC race because Bob voted against the sidewalks"(TR, p. 32). Wiss presented a copy of the original set of questions sent to her by e-mail on April 5, 2007 (Exhibit 7). Wiss further presented a second set of questions sent by e-mail on April 25, 2007 (Exhibit 8).

Wiss stated that she did not observe any activity that would lead her to believe that the group was working for any Ward 3 candidate (TR, pp. 27-28). She recalled seeing signs in front of the Cheh campaign headquarters [on Wisconsin Avenue, N.W.] in late summer [2006], but she cannot recall precisely (TR, p. 38). Whether she was approached in a similar manner as to whether a group could offer her support, she responded that Robert

Gordon who “heads all of the Commissioners on his ANC, had sent a letter to the editor of the Northwest Current, saying that they supported – they endorsed Robert Gordon” (TR, p. 30). She continued that she also requested letters of support from ANC Commissioners by phone and e-mail (TR, p. 31). Some time later, she was advised by a member of the group that the members had opted to support Cheh (TR, p. 35).

Summary of Interview of Erik S. Gaull, 2006 Candidate for Ward 3 Council

On March 21, 2007, OCF interviewed Erik S. Gaull (Gaull), 2006 candidate for Ward 3 Council. Gaull appeared pro se. He stated that during his campaign he was contacted by a number of groups and organizations including a group which identified itself as “Ward 3 Action.” Gaull additionally stated that the group “introduced itself as a group of Ward 3 voters who had decided to vote together as a voting block, and who had further decided to lend support to the candidate that they collectively chose as individuals.” (TR, p. 8).

According to Gaull, he was contacted by telephone in April of 2006 by Joseph Sternlieb who indicated that he was pulling together a group and asked him if he would like to be considered by the group, to which Gaull replied that he would. Two to three weeks later, Gaull was contacted by Anne-Marie Bairstow, who arranged a meeting with the group that occurred sometime in May 2006 (TR, pp. 25, 26). Gaull stated that he completed a questionnaire prior to the meeting and submitted it. He stated that he retained a copy of the questionnaire which he would submit to OCF (TR, pp. 11, 12).

In response to a query as to whether he was familiar with a group which identified itself as “Friends of Joe Sternlieb,” Gaull responded that the handle was from Rees and that the group known as Ward 3 Action never identified themselves as “Friends of Joe Sternlieb.” He continued that he understood that they wished to identify a candidate that they wished to see elected. “It was not a formal group, it was not a PAC, it was not a campaign committee, it was an informal group of Ward 3 voters who were concerned about who the next Council member would be, and wished to vote as a block, and wished [to] make commitment to support that identified candidate with individual contributions from the members under the \$500.00 limit for ward council races, and donate time, and do whatever they could to get that candidate elected.” Gaull stated that he would have been pleased to receive their endorsement. (TR, pp. 13-15).

Gaull stated that he was interviewed by the group at a Day-Care Center on Wisconsin Avenue, N.W., but he could not recall the exact address. He said that he understood that the group was also interviewing the other candidates in the race. Gaull further stated that he did not believe that any particular individual served as a spokesperson for the group. Gaull said that he recalled that in addition to Ms. Bairstow, Aviva Kempner, Susan Linsky, Joe Sternlieb, Claire Bloch, Susan Banta, Emily DeCicco (now deceased), Rick Gersten and Debbie Yogodzinski were part of the group that interviewed him, but he could not identify all the members (TR, pp. 18, 19).

Gaull stated that he was advised by Bairstow that the group had chosen to support the candidacy of Mary Cheh in May 2006. Gaull stated that subsequent to being informed of the group's decision, he observed members of the group working in the Cheh campaign; specifically, Anne-Marie Bairstow and Claire Bloch (TR, p. 37).

Summary of Interview of Robert Gordon, 2006 Candidate for Ward 3 Council

On March 23, 2007, OCF interviewed Robert Gordon (Gordon), 2006 candidate for Ward 3 Council. Gordon appeared pro se. Gordon stated that he was contacted by Joseph Sternlieb via e-mail on March 30, 2006, which identified the group as "Ward 3 Action" asking to meet with him (TR, p. 8). Gordon provided a copy of the e-mail (Group Exhibit 9). Gordon continued that Sternlieb informed him that the group had met a couple of times and consisted of approximately 20 members, but it seemed like there were a lot more people in the group (TR, p. 9). Gordon additionally stated that he was contacted by Anne-Marie Bairstow via e-mail to arrange the interview he attended on April 5, 2006. He also stated that Sternlieb's wife, Linda Singer, was in attendance during his interview (TR, pp. 9, 10). Gordon stated that he recalled that Andrew Aurbach, Anne-Marie Bairstow, Rosalyn Doggett, Norman Dong, Aviva Kempner, Joe Sternlieb and Barbara Wolfson were members of the group that interviewed him.

Gordon further stated that the interview lasted approximately one hour (TR, p. 12). He also stated that Bairstow appeared to be leader of the group, but he believed that Sternlieb was the key person in the group and that he was clearly the leader of the group because a lot of the contacts were through him (TR, pp. 14, 15).

Gordon stated that he did not receive the groups' decision until he telephoned Sternlieb and was informed that they were supporting Cheh. He also stated that according to Sternlieb, the group was initially formed to support Sternlieb's candidacy but when he decided not to run they decided to use the group to support another candidate. Gordon stated that Sternlieb told him that the group would bring in lots of votes, political support, resources and money.

Gordon also stated that Sternlieb additionally said that the group, plus a broader group of others, had committed about \$100,000.00 for his campaign, but it would not be as much for another candidate because the candidate was not as well known, or respected. Nonetheless, it would be a significant amount of money in the \$20,000.00 to \$25,000.00 range (TR, pp. 17, 18). Gordon further stated that it was his impression that there were a lot of people out there who were prepared to give at the group's direction; and, that the lucky person who got the nod from this group would be the one who would be the recipient of that money. Gordon stated that during his campaign he did not encounter any other organized group like Ward 3 Action that had a questionnaire to fill out and interviews, except union and environmental groups.

He continued that he found Ward 3 Action to be organized and focused with the specific goal of picking a candidate from a field of many candidates and back that candidate.

Gordon further stated that it was clear to him that the group was in favor of greater development along the Wisconsin Avenue corridor based upon the questions he was asked when they interviewed him (TR, p. 27).

Summary of Interview of Bill Rice, 2006 Candidate for Ward 3 Council

On March 30, 2007, OCF interviewed Bill Rice (Rice), Candidate for Ward 3 Council. Rice appeared pro se. Rice stated that he was contacted by several groups during the 2006 elections, including unions, community groups and others (TR, p. 6). Rice did not recall being contacted by a group called the “Friends of Joe Sternlieb”; Rice was contacted by a group called “Ward 3 Action” and interviewed with the group (TR, p.7).

As Rice recalled, the group consisted of Ward 3 residents who were interviewing candidates, including Mary Cheh, “for some kind of support – endorsement of some kind.” Rice received a call to meet with the group, and has no recollection of an e-mail (TR, p. 7). Rice recalled [receiving] some written questions from the group, but he did not respond in writing (TR, p. 9). Rice recalled that Joseph Sternlieb was in attendance at the interview (TR, p. 11). According to Rice, “this group would do politically appropriate things to show their support for the candidate that they decided to support. And I took that to mean individuals working in your campaign” (TR, p. 12). Rice stated that “this was a new group. It was made up of residents of Ward 3 . . . some of whom had been politically active, and therefore I thought their endorsement would be very useful” (TR, p. 18).

Rice recalls that Sternlieb contacted him to inform him that unfortunately he did not get the endorsement [of the group] (TR, p. 21). Rice further recollected, “That they would act as individuals and as a group. And I thought that was interesting, that they would try to maximize – not maximize – increase their effectiveness by doing both” (TR, pp. 22, 23). According to Rice, “I did not have the impression, in the interview or in the campaign, that Ward 3 Action was a PAC. . . like the Board of Trade, like the Chamber of Commerce . . . “they were just a group of individuals who’d gotten together to endorse a candidate” (TR, pp. 27, 28).

Summary of Interview of Anne-Marie Bairstow, Campaign Manager, Mary Cheh for D.C. Council Committee

On April 12, 2007, OCF interviewed Anne-Marie Bairstow (Bairstow), campaign manager, Mary Cheh for D.C. Council Committee. Bairstow appeared pro se. According to Bairstow, “the second time I met her [Candidate Cheh] was when we had this group of people who were interviewing all of the Ward 3 candidates . . . (TR, p. 7). Bairstow stated that she worked for Joseph Sternlieb at the Downtown D.C. Business Improvement District from January of 1998 until September of 2002” (TR, p. 8). According to Bairstow, “we [Ward 3 Action] came together because we were all interested in having someone competent replace Kathy Patterson as the Ward 3 Council member” (TR, p. 9).

Bairstow stated that “Joe Sternlieb knew a lot of people and asked them to come, and then other people invited other friends” (TR, p. 9). Bairstow stated, “I think we said that all of us were people who are active in the community and if we agreed that we all wanted to support someone, that would be a strong measure of support but we didn’t say we would do X, Y, and Z” (TR, p. 15).

Bairstow said she did not think the group ever made it clear how they would support the candidacy. She stated, “I think we just said that if we all worked for this person that would be great because there were so many people in the room with different skills but we never said, ‘Oh, this is what we are going to do.’” (TR, p. 18). According to Bairstow, many of the group made monetary contributions, “many did but some didn’t; I] think it was everyone’s understanding that a primary way of supporting a campaign is by contributing to the campaign. It was definitely a requirement” (TR, p. 19).

Bairstow stated that she was initially contacted to participate in the group by Joe Sternlieb (TR, p. 19). Bairstow indicated that Sternlieb stated, “I think we should all get together and look at all the different candidates that are out there together and make sure that there are some good people running. He compared it to the group, “Ed Action”, that interviewed school board candidates” (TR, p. 22). According to Bairstow, the handbill entitled, “Why We Support Mary Cheh”, which listed the names of Cheh supporters, was authorized by Candidate Cheh (TR, p. 24).

Bairstow stated that she was the campaign manager for Mary Cheh and was paid \$1500.00 a month for three months (TR, p. 22). She Bairstow stated that she “e-mailed most of my friends and asked them to support Mary . . . and helped her make fundraising calls . . . I had a list that some people put together and asked them to give money to Mary” (TR, pp. 26, 27).

According to Bairstow, “we got that space very shortly before the primary . . . and I don’t remember, but sometime mid-August through the primary . . . Then there was an option to extend through the general election in November. Referring to the lease agreement, Bairstow stated, “I believe it was a letter” (TR, pp. 30, 31). According to Bairstow, “It was PN Hoffman’s space and they [the campaign] were allowed to use it if they needed it. During the primary I don’t remember them [PN Hoffman] being in there. Like I said, I stopped working for the campaign after the primary so I don’t know what happened between the primary [election] and the general [election]. Bairstow described the leased office space: “it had a front conference room that was 15 feet long, 15 feet deep and not even 10 feet wide. Then two (2) offices with doors. I’m not the most special person, but I’m guessing 10 feet by 10 feet. Then there was kind of an open cubicle area with three cubicle desks” (TR, p. 33).

Summary of Interview of Debra Yogodzinski, Esq.

On April 12, 2007, OCF interviewed Debra Yogodzinski, Esq. (Yogodzinski), a local real estate attorney. She was accompanied by her attorney, Robert Bernius, Esq.

Yogodzinski stated that she is a real estate attorney and a partner in the law firm of Nixon Peabody LLP. She stated that she met Council member Mary Cheh during the spring of 2006 when Ms. Cheh was running for the Council in Ward 3; that she, along with a small group of people interviewed virtually all of the people running in Ward 3 and that's the context in which she met Mary Cheh (TR, p. 7).

Yogodzinski also indicated that she had known Joe Sternlieb for six or seven months¹. She stated that she initially wanted Sternlieb to run for the Ward 3 Council seat but after he decided not to run she and other friends decided to work together to see if there was someone that they could actually work together and support because it was a huge field and no one really knew the candidates (TR, pp. 8, 9). Yogodzinski further stated that at any given meeting there were probably 20 people in attendance but the group was comprised of approximately 30 people. She stated that most of the members of the group had expected to work for Sternlieb and when he decided against running, they decided to work together and find someone else to support (TR, p. 10).

Yogodzinski stated that there was no single individual who helped pull the group together. It was all friends of friends. She stated that the group held meetings at a Pre-School on Wisconsin Avenue that was operated by one of the members of the group. Yogodzinski stated that even though they interviewed candidates they were never a formal group. She stated that the group utilized both prepared questions and unscripted questions during interviews with candidates (TR, p. 15). Yogodzinski did not recall how many candidates the group interviewed. Yogodzinski stated that the group's first meeting was held at her home, but subsequent meetings were held at the Pre-School. She stated that she believed the group's final meeting was held prior to the Primary Election because after they decided to support Cheh, she does not recall meeting again. Yogodzinski stated that she has no knowledge of a group known as "Friends of Joe Sternlieb".

Yogodzinski characterized the group's goal as operating as individuals in terms of the campaign for Ward 3; that they got together because it was an easier way for them to interview all the candidates but it was never a formal group that they somehow decided "this is do or die and we are all going to do something together, we never thought of it that way" (TR, p.12). Yogodzinski stated that people came in and out of the group (TR, p. 13).

Yogodzinski stated that Lamont Hoffman is a client of hers whom she began representing about four years ago (TR, p. 21). She stated that she held a fundraiser at her home which was attended by Steve Earle who is the President of PN Hoffman. Yogodzinski stated that someone from the Cheh campaign called her and asked her to ask Hoffman if he

¹It should be noted that this reference is most likely stated in error or there is an error in the transcript, inasmuch as the Yogodzinski indicated that the relationship with Sternlieb spans a much longer period.

would lease the campaign space in his building on Wisconsin Avenue. She also stated that after she telephoned Hoffman, the campaign and Hoffman reached an agreement.

Yogodzinski drafted a one-page letter-lease agreement which the parties apparently executed (TR, pp. 23, 24). She stated that she believes the lease agreement was executed in August of 2006. Yogodzinski also stated that the agreement was for \$2,500.00 for the first month and a reduced amount for subsequent months because the campaign would probably share the space. She stated that she has no personal knowledge of whether the rent was reduced or whether the Cheh campaign actually shared the space. Yogodzinski stated that she never actually inspected the office space. She stated that she did not work with the Cheh campaign but she did host a fundraiser at her home, called Hoffman on the office space and drafted the one-page agreement. Yogodzinski stated that she made a monetary contribution of \$500.00 to the Cheh campaign (TR, p. 30). She stated that she spent approximately a half hour drafting the agreement for the lease of the office space (TR, p. 31); and, that she considered the drafting of the one-page lease basically volunteer work for the campaign (TR, p. 30).

Summary of Interview of Ann Messner and Virginia Gunner, Christian Science Reading Room

On April 26, 2007, OCF made a field visit to the Christian Science Reading Room located at 4729 Wisconsin Avenue, N.W., next door to the former Cheh campaign headquarters. OCF interviewed Ann Messner (Messner) and Virginia Gunner (Gunner), employees of the Christian Science Reading Room. Messner and Gunner stated the Reading Room occupied its space for five (5) years, and that it pays \$3,000 per month for rent. According to Messner, the Cheh campaign occupied their headquarters on or around the time Bill Rice, candidate for Ward 3 Council, announced his candidacy. Messner recollects this time frame as it coincided with her urgings to Bill Rice to run for office. Messner and Gunner commented that the campaign (Cheh) had “so much space”, and they “occupied the whole space.”

Summary of Interview with David DeSantis, Vice President of Sales and Marketing, PN Hoffman

On April 26, 2007, OCF made a field visit to the former headquarters of the Cheh campaign located at 4731 Wisconsin Avenue, N.W. OCF interviewed David DeSantis (DeSantis), Vice President of Sales and Marketing, PN Hoffman. According to DeSantis, the Cheh campaign occupied the first 2 rooms only of the space at 4731 Wisconsin Avenue, N.W., and left after the General Election. According to DeSantis, the Cheh campaign occupied approximately 550 square feet of office space, possibly leasing for \$20 - \$25 per square foot.

DeSantis stated that there was no “For Lease” notice posted on the office space because it was generally known that the space was available. The space, according to DeSantis, was formerly occupied by a café [Left Bank Bakery Café], and that office space was carved out for PN Hoffman’s use after the café left in the summer of 2006. DeSantis

stated that the current condition and configuration of the office space observed by OCF investigators was substantially the same as when leased to the Cheh campaign. DeSantis further stated that Councilmember Cheh wanted to continue to lease the space for her Constituent Services Program. Further, to his knowledge, the Cheh campaign did not occupy or use space located above the commercial space on Wisconsin Avenue, N.W.

Other Evidentiary Considerations

According to Ahmed Eyow, Chief, Office of Contract Support, Office of Property Management, District of Columbia Government, it is customary for short-term leases of commercial space to command a higher monthly rental rate than longer term leases.

According to Gary Dove, a local, commercial real estate professional, it is customary that square footage is typically a major determinant of the cost of leased space. Mr. Dove, a CCIM (Certified Commercial Investment Member) and member of the Appraisal Institute, is a recognized expert in commercial and investment real estate. He said, however, that other factors may influence the market rate such as the condition of the space, location, cost of rental of similar space in the area and tenant improvements, as well as other extenuating circumstances, e.g., the length of time the space has been vacant.

OCF relied upon various federal and local agency records, especially the Federal Elections Commission and the D.C. Department of Consumer and Regulatory Affairs. OCF also relied upon its records, pursuant to its contributions and expenditures search.

Findings of Fact

Having reviewed the allegations, respondents' answers and the entire record, I find:

1. During the 2006 elections in the District of Columbia, a group of Ward 3 residents, numbering between 20 to 30 persons, decided they would interview the candidates seeking election to the Ward 3 Council seat to determine the best qualified candidate to represent their Ward.
2. These residents held meetings, contacted the candidates to schedule interviews, prepared questions for the interviews to elicit the candidates' positions on issues of interest to the group; and, ultimately decided, as a group, which candidate could best represent their interests on the District of Columbia Council.
3. These residents, as a group, were not promoting or opposing the nomination or election of any Ward 3 candidate because these residents had not decided, during the times of their meetings and interviews, which candidate could best represent their interests on the District of Columbia Council as their Ward representative.

4. These residents, as a group, decided that Mary Cheh was best qualified to represent their Ward and, upon making that determination, dispersed, as a group.
5. Mary Cheh was a neophyte to the political process in that she was a first-time candidate for any office in the District of Columbia, with no prior history with the Office of Campaign Finance.
6. Prior to their selection of Mary Cheh as the best qualified candidate to represent Ward 3, these residents came together as a group without any preconceived notion as to which candidate each resident, within the group, would eventually decide as best qualified to represent the Ward.
7. Prior to their selection of Mary Cheh as the best qualified candidate to represent Ward 3, these residents, as a group, did not have a spokesperson or head, solicit contributions, make expenditures, campaign for any candidate or spend money on behalf of their group for any candidate; and, met informally at a business owned by a member of the group.
8. After their selection, as a group of Mary Cheh as the best qualified candidate to represent Ward 3, these residents signaled their individual support in a handbill entitled, "Why We Support Mary Cheh for Ward 3 Council," which was produced by the Cheh principal campaign committee.
9. Mary Cheh distributed the handbill within the Ward 3 community and to the local Northwest Current to indicate that these residents individually and collectively endorsed her candidacy.
10. The Cheh principal campaign committee did not reflect on the handbill that it was responsible for the creation and reproduction thereof.
11. The Cheh principal campaign committee was required to identify the handbill, "Why We Support Mary Cheh for Ward 3 Council", with the words "paid for by" followed by the name and address of the payer and on whose behalf the material appears.
12. After their selection, as a group of Mary Cheh as the best qualified candidate to represent Ward 3, some of these residents, acting individually, opted to promote the candidacy of Mary Cheh by placing signs in their yards, contributing to the campaign, distributing campaign literature, volunteering in her campaign and becoming paid employees of the principal campaign committee.
13. One of the Cheh campaign workers was a resident, who was initially a member of the group to decide they would interview the candidates seeking election to the Ward 3 Council seat to determine the best qualified candidate to represent their Ward, named

Debra Yogodzinski, Esq., a local real estate attorney, who offered her services at no cost to the campaign to create a lease for a building owned by PN Hoffman to house the Cheh campaign.

14. PN Hoffman offered the space at 4725 Wisconsin Avenue, N.W. for a three (3) week period at a rate of \$2,500; and, that later the rate would change to \$1,500 per month because PN Hoffman intended to move personnel into the space.

15. The Cheh campaign later shared the space with a PN Hoffman joint venturer; and, PN Hoffman later moved its Marketing and Sales staff into the space upon departure of the Cheh campaign.

16. The lease costs of the space, of \$2,500 and \$1,500, are fair because PN Hoffman had the vacant space since January 2006, was collecting no rent, and noted no market demand for the space.

17. The prior tenant of the PN Hoffman leased space used by the Cheh campaign was Left Bank Café and Bakery and its owner, Jay Feldman, paid between \$1,800 and \$2,400 per month.

18. PNH Union Square Warehouse LLC, PNH Union Square LLC, and 5401 Western Avenue Residential LLC, all registered LLCs with the District of Columbia Department of Consumer and Regulatory Affairs (D.C.R.A), are owned by Lamont Hoffman of 4725 Wisconsin Avenue, N.W., Suite 200, Washington, D.C., 20016.

19. PNH Union Square Warehouse LLC, PNH Union Square LLC, and 5401 Western Avenue Residential LLC, all registered LLCs with the District of Columbia Department of Consumer and Regulatory Affairs (D.C.R.A), each contributed \$500.00 to Respondent's candidacy.

20. PNH Union Square Warehouse LLC, PNH Union Square LLC, and 5401 Western Avenue Residential LLC, all registered LLCs with the District of Columbia Department of Consumer and Regulatory Affairs (D.C.R.A), while owned by one individual, are separate and independent entities.

Conclusions of Law:

1. Joseph Sternlieb, Linda J. Singer and others did not operate as a political action committee (PAC), pursuant to D.C. Official Code §1-1102.04, under the name of "Friends of Joe Sternlieb", or any other name, because Joseph Sternlieb, Linda J. Singer and others opted to join together as a group to select a candidate to promote for the nomination or election of an individual to office and not to promote the nomination or election of a previously selected candidate to office. See FEC Advisory Opinion 2006-

20, October 10, 2006) { “[O]nly organizations whose major purpose is campaign activity can be considered political committees under the Act.”, citing Buckley v. Valeo, 424 U.S. 1 (1986). }

2. Since Joseph Sternlieb, Linda J. Singer and others did not operate as a political action committee (PAC), pursuant to D.C. Official Code §1-1102.04, it is moot to determine whether there was a requirement of PAC registration, pursuant thereto; a requirement of PAC filing of reports of receipts and expenditures, pursuant to D.C. Official Code §1-1102.06; and, a requirement for Respondent’s Committee to report, pursuant to D.C. Official Code §1-1102.06, any contributions and expenditures derived from Joseph Sternlieb, Linda J. Singer and others, as an alleged PAC.

3. Respondent’s Campaign did not receive an excess in-kind contribution, pursuant to 3 D.C.M.R. §9900.1, above the contribution limitation of \$500.00 for the office of “member of the Council elected from a ward,” pursuant to D.C. Official Code §1-1131.01(a)(4), from Debra Yogodzinski, Esq., when she prepared the lease agreement for the Cheh Campaign with PN Hoffman because Debra Yogodzinski, Esq. was a volunteer who offered her legal services without compensation to the Cheh Campaign, in accordance with D.C. Official Code §1-1101.01(6)(B)(i).

4. Respondent’s Campaign did not receive an excess in-kind contribution, pursuant to 3 D.C.M.R. §9900.1, above the contribution limitation of \$500.00 for the office of “member of the Council elected from a ward,” pursuant to D.C. Official Code §1-1131.01(a)(4), from PN Hoffman when it leased property therefrom in the amounts of \$2,500.00 for three (3) weeks and \$1,500.00 for one month of a shared space because PN Hoffman leased the property at its local fair market value, pursuant to 3 D.C.M.R. §3008.9, in view of the property’s vacancy and the \$1,800.00 to \$2,400.00 lease amount leveled at the previous tenant.

5. Limited Liability Corporations (LLCs) are viewed as independent entities, similar to non-LLC corporations; and, they are thus permitted to contribute the maximum amount allowable to political campaigns. See OCF Interpretative Opinion 02-05(a) (May 13, 2002) (“It is a well-settled principle of corporate law that ownership of all or a majority of the shares of a corporation by one individual, or a few individuals, does not afford sufficient grounds for disregarding corporateness.”)

6. Respondent violated D.C. Official Code §1-1102.10 when she failed to identify the handbill, “Why We Support Mary Cheh for Ward 3 Council,” with the words “paid for by” followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.

7. The penalty established at 3 D.C.M.R. §3711.2(n) for failure to place notices required by the Act on campaign literature is \$500.00.

8. For good cause shown pursuant to 3 D.C.M.R. §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.

9. Respondent's status as a first time office seeker in the District of Columbia, with no prior history with the Office of Campaign Finance, provides good cause for suspension of the fine.

Recommendation:

In view of the foregoing and information included in the record, I hereby recommend that the Director dismiss this matter in its totality and suspend the imposition of any fine herein.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

To highlight the issue of the existence of a political committee, during the 2006 elections in the District of Columbia, a group of Ward 3 residents, friends and neighbors, came together to interview the candidates seeking election to the Ward 3 Council seat to determine the best qualified candidate to represent their Ward, because the field was so crowded. These individuals held meetings, contacted the candidates to schedule interviews, prepared questions for the interviews to glean the candidates' positions on issues of interest to the group; and ultimately decided to support Mary Cheh.

D.C. Official Code §1-1101.01(5) defines the term "political committee" to mean any proposer, individual, committee (including a principal campaign committee) club, association, organization, or other group of individuals organized for the purpose of or engaged in: promoting or opposing a political party, promoting or opposing the nomination or election of an individual to office, or promoting or opposing any initiative, referendum, or recall". The group identified as "Ward 3 Action" did not engage in activity that falls within the above referenced definition. While it may be viewed that "Ward 3 Action" formed to determine the best qualified candidate to represent their Ward, these neighbors and friends did not engage in any activity that clearly extends beyond arriving at a determination of who was the "best qualified" candidate. The group did not solicit contributions or make expenditures to promote the nomination of any one candidate to office.

After Cheh became the group's choice, the group dispersed prior to the conduct of the Primary Election. Individuals associated with the group then proceeded to promote her candidacy in their individual capacity by contributing financially to the Cheh Principal Campaign Committee. In addition, a number of the members of the group were employed and paid by the Cheh Campaign to perform services. Anne-Marie Bairstow became the campaign manager through the primary election; Claire Bloch served as the campaign manager through the general election; and, Andrew Aurbach was responsible for campaign materials. This activity did not constitute the on-going efforts of a political committee.

When the group selected Cheh as their candidate and thereafter dispersed, these residents expressed their selection of Cheh and their commitment to support her candidacy in the handbill entitled, "Why We Support Mary Cheh For Ward 3 Council". The goal of Ward 3 Action was accomplished.

WHEREFORE, IT IS ORDERED this matter be dismissed in its totality; and

IT IS FURTHER ORDERED that the fine in this matter is hereby suspended.

This Order may be appealed to the D.C. Board of Elections and Ethics within 15 days from the date of issuance.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order to respondent and other interested parties, on July 17, 2007.

NOTICE

Pursuant to 3 D.C.M.R. §3711.5 (March 2007), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 433, 2000 14th Street, N.W., Washington, D.C. 20009.

Exhibit List

Exhibit 1	OCF Audit Letter – Request for Additional Information
Exhibit 2	Lease Agreement for Campaign Office Space
Exhibits 3-4	Rent Checks dated October 3, 2006 & November 6, 2006
Exhibit 5	OCF Interpretative Opinion #02-05(a)
Exhibit 6	March 1, 2007 e-mail from Lamont Hoffman
Exhibit 7	Interview Questions to Candidate Wiss dated April 5, 2006
Exhibit 8	Interview Questions to Candidate Wiss dated April 25, 2006
Exhibit 9	Group Exhibit – Candidate Robert Gordon
Attachment A	Contributions to Mary Cheh for D.C. Council
Attachment B	Expenditures by Mary Cheh for D.C. Council